



Legislative Bulletin.....May 12, 2005

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H.R. 1544—Faster and Smarter Funding for First Responders Act

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$0

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

H.R. 1544—Faster and Smarter Funding for First Responders Act (Cox)

Order of Business: The bill is scheduled to be considered on Thursday, May 12th, subject to a structured rule. The RSC will provide summaries of the amendments made in order under the rule in a separate document.

Summary: H.R. 1544 would authorize the Secretary of the Department of Homeland Security (DHS) to change the criteria used to distribute funding—but not the total amount of funding—for three existing first-responder grant programs—the State Homeland Security, the Law Enforcement Terrorism Prevention, and the Urban Area Security Initiative grant programs. Major provisions of the legislation are as follows:

- Alters the distribution of federal homeland security grants to first responders based more on the vulnerability of and threats to different areas, rather than on a geographic equity model. The grant distribution would also be based on the consequences to the nation if such an area or target were attacked.
- Excludes certain grant funds to which this legislation would not apply, including (but not limited to) earthquake hazards reduction, veterans, and certain disaster relief.
- Requires that states submit acceptable three-year homeland security plans as part of their applications for receiving federal first responder grant funds. The plans would have to, among other things, describe in detail the essential capabilities that communities within the state should possess, or to which they should have access, based upon the terrorism risk factors relevant to such communities.
- States could apply together as a region (subject to certain conditions), and Indian tribes could apply—but only via the states within the boundaries of which any part of an applying tribe is located. No more than 20 tribes could get direct grants per year, though states could use their own grants in their tribal areas, subject to certain restrictions.
- Creates a First Responder Grants Board (consisting of the Homeland Security Secretary, four Under Secretaries in the Department, the Director of the Office for Domestic Preparedness, and the Administrator of the U.S. Fire Administration) to evaluate grant applications. The Board would have to evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would “lessen the threat to, vulnerability of, and consequences for persons (including transient commuting and tourist populations) and critical infrastructure,” based on DHS’ most current risk assessment of the terrorist threats against the United States.
- Identifies “critical infrastructure sectors” as (in no particular order):
 - agriculture and food;
 - banking and finance;
 - chemical industries;
 - the defense industrial base;
 - emergency services;
 - energy;
 - government facilities;
 - postal and shipping;
 - public health and health care;
 - information technology;
 - telecommunications;
 - transportation systems;
 - water;
 - dams;
 - commercial facilities; and
 - national monuments and icons.

- Identifies the main threats to critical infrastructure as (in no particular order):
 - biological threats;
 - nuclear threats;
 - radiological threats;
 - incendiary threats;
 - chemical threats;
 - explosives;
 - suicide bombers;
 - cyber threats; and
 - any other threats based on proximity to specific past acts of terrorism or the known activity of any terrorist group.

- Directs the Board, in evaluating the threat to a population or critical infrastructure sector, to give greater weight to threats of terrorism based upon their specificity and credibility, including any pattern of repetition.

- Sets the minimum funding level for each state that submits an approved homeland security plan (other than the territories) at 0.25% of the total funds available for these grants in any fiscal year (0.45% for states that have an international border). Regional grants would not count toward a state's minimum.

- Sets the minimum funding level for each U.S. territory and Indian tribe that submits an approved homeland security plan at 0.08% of the total funds available for these grants in any fiscal year.

- Establishes a Task Force on Terrorism Preparedness for First Responders to assist the Secretary of Homeland Security in updating, revising, or replacing essential capabilities for terrorism preparedness (reports to the Secretary are required within one year and then every two years thereafter). The Task Force would consist of 25 members appointed by the Secretary, and would, "to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of governmental and nongovernmental first responder disciplines from the state and local levels."

- Specifies in detail what the first responder grant funds could be used for (updating equipment, erecting barriers, hiring personnel, etc.) and prohibits funds from being used to supplant state or local funds (including any cost-sharing requirements), to construct buildings or other physical facilities, or to acquire land.

- Allows state and local governments to use homeland security grant funds in a manner that also enhances first responder preparedness for emergencies and disasters unrelated to acts of terrorism, as long as such use assists such governments in achieving essential capabilities for terrorism preparedness established by DHS.

- Prohibits DHS from requiring that equipment paid for, wholly or in part, with funds provided under this legislation be made available for responding to emergencies in

surrounding states, regions, or localities, unless DHS pays for the costs directly attributable to transporting and operating such equipment during such response.

- Allows DHS to approve grantees to transfer funds from one approved homeland security use to another homeland security use, regardless of what was originally written in the state plan for the use of funds.
- Requires states to pass through 80% of funds to local governments and other local groups within 45 days of receiving federal grant funds (subject to penalties, such as funding restrictions and terminations, for failure to do so; yet also subject to 15-day extensions).
- Sets at 75% the federal cost share of activities supported by these grants beginning in two years (100% before then). The federal cost share could go as high as 77% for states, tribes, and regions that submit quarterly reports on grant expenditures.
- Requires grant recipients to annually report to the Homeland Security Secretary on the use of funds and requires the Secretary to annually report to Congress on the use of funds.
- Directs the Homeland Security Secretary, in consultation with appropriate authorities, to develop national voluntary consensus standards for the performance, use, and validation of first responder equipment (including items such as chemical detection equipment, explosion mitigation devices, personal protective equipment, and decontamination equipment).
- Directs the Homeland Security Secretary, in consultation with appropriate authorities, to develop national voluntary consensus standards for the training of first responders.
- Clarifies that this legislation supersedes the grant program for state and local domestic preparedness support in the USA PATRIOT Act (Public Law 107-56).
- Requires that the Secretary of Homeland Security establish an Office of the Comptroller within the Office for Domestic Preparedness to oversee the grants distribution process and the financial management of the Office for Domestic Preparedness.
- Directs the General Accountability Office to report (and make recommendations) to Congress on the overall inventory and status of DHS' and other federal first responder training programs and the extent to which such programs are coordinated.

Additional Background: The vast majority of the provisions in H.R. 1544 were first included in the 9-11 Commission bill (H.R. 10) as it first passed the House last year. They were excluded from the Conference Report (S. 2845) and thus did not get signed into law.

Committee Action: On April 19, 2005, the Homeland Security Committee’s Subcommittee on Emergency Preparedness, Science, and Technology marked up and forwarded the bill to the full Committee by unanimous consent. Two days later, the full Committee marked up and by voice vote ordered the bill reported to the full House.

Administration Position: Although no Statement of Administration Policy (SAP) is presently available for H.R. 1544, the SAP for H.R. 10 last year contained this statement regarding the first responder grants section: “The Administration commends the provisions that add to the Secretary of Homeland Security’s flexibility in providing first responder grant funds to certain high-risk areas, but has concerns about border state funding mandates which reduce that flexibility. The complete SAP for H.R. 10 (108th Congress) can be accessed at this link: <http://www.whitehouse.gov/omb/legislative/sap/108-2/hr10sap-h.pdf>

Cost to Taxpayers: CBO confirms that H.R. 1544 would have no significant impact on the federal budget, since the bill would not affect the **total** amount of federal homeland security grants distributed—only the nature of such distribution.

Does the Bill Expand the Size and Scope of the Federal Government?: Not significantly. The bill would create a First Responder Grants Board (consisting of existing secretaries, under secretaries, and administrators) and a Task Force on Terrorism Preparedness for First Responders (consisting of 25 members from a “cross section of governmental and nongovernmental first responder disciplines from the state and local levels”).

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The Homeland Security Committee, in House Report 109-65, cites constitutional authority in Article I, Section 8, Clause 1 (the power of Congress to provide for the common defense and general welfare of the United States).

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718

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